

# LIVE OAK CHARTER SCHOOL

## BOARD POLICY: SEXUAL AND GENDER-BASED HARASSMENT

### **Purpose of Policy**

It is the policy of the Governing Board (Board) of Live Oak Charter School (“School”) to provide an environment free of sexual and gender-based harassment. To accomplish this purpose, the policy is designed to secure, at the earliest level possible, an appropriate resolution to an allegation of sexual or gender-based harassment. This policy is intended to supplement, and not replace, any applicable state or federal laws and regulations. Complaints under these laws and regulations shall be processed through the procedures established by the appropriate state and/or federal agencies. It is the position of this Board that sexual harassment is unlawful and will not be tolerated. It is a violation of this policy for any employee, agent, student, or party with which the School has a cooperative agreement, to engage in sexual harassment.

### **Prohibition**

*The Board prohibits sexual or gender-based harassment of school employees and job applicants. The board also prohibits retaliatory behavior or action against school employees or other persons who complain, testify or otherwise participate in the complaint process established pursuant to this policy and administrative regulation*

*The Executive Director or designee shall take all actions necessary to ensure the prevention, investigation, and correction of sexual harassment, including but not limited to:*

- 1. Providing training to employees in accordance with law and administrative regulation*
- 2. Publicizing and disseminating the school’s sexual harassment policy to staff*
- 3. Ensuring prompt, thorough, and fair investigation of complaints*
- 4. Taking timely and appropriate corrective/remedial action(s), which may require interim separation of the complainant and the alleged harasser and subsequent monitoring of developments*

### **Educational Environment**

Within the educational environment, sexual and gender-based harassment is prohibited between students, and between employees or agents/non-employees (such as contract employees, service providers, or volunteers) and students.

### **Work Environment**

Within the work environment, sexual and gender-based harassment is prohibited between supervisors and employees, between employees, and between agents/non-employees (such as contract employees, service providers, or volunteers) and employees.

### **Definition of Sexual Harassment**

#### **A. General Definitions**

Sexual harassment occurs when unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature is:

1. Made either explicitly or implicitly a term or condition of an individual's educational status or employment;
2. Used as a basis for educational or employment decisions affecting such individual;
3. Or has the purpose or effect of unreasonably interfering with an individual's educational or work performance or creating an intimidating, hostile or offensive educational or working environment.
4. Is used as the basis for any decision affecting the individual regarding benefits and services, honors, programs, or activities available at or through the educational institution.
5. The deliberate or careless creation of an atmosphere of sexual harassment or intimidation, or a hostile or offensive working environment.
6. Any other conduct which, at the time of the conduct, constitutes sexual harassment under any state or federal law or implementing regulation.

Allegations of sexual or gender-based harassment shall be thoroughly investigated in accordance with the School's sexual harassment complaint procedures.

## **B. Specific Examples**

For the purpose of further clarification, sexual harassment includes but is not limited to:

1. Making unsolicited written, verbal, physical and/or visual contact with sexual overtones. (Written examples include but are not limited to: suggestive or obscene letters, notes, invitations. Verbal examples include, but are not limited to: derogatory comments, innuendos, slurs, jokes, epithets. Physical examples include, but are not limited to: assault, touching, impeding, or blocking movement. Visual examples include, but are not limited to: leering, gestures, display of sexually suggestive objects or pictures, cartoons, or posters.)
2. Making comments about a person's gender or perceived gender that reasonably creates a hostile environment for the person targeted.
3. Continuing to express sexual interest after being informed that the interest is unwelcome. (Reciprocal attraction between appropriate parties is not considered sexual harassment.)
4. Making reprisals, threats of reprisal, or implied threats of reprisal following a negative response. For example, **within the work environment**, either implying or actually withholding support for an appointment, promotion, or change of assignment; suggesting a poor performance report will be prepared, or suggesting probation will be failed. For example, **within the educational environment** either implying or actually withholding grades earned or deserved; suggesting a poor

performance evaluation will be prepared; or suggesting a letter of recommendation will be denied.

- a. **Within the work environment**, engaging in implicit or explicit coercive sexual behavior which is used to control, influence, or affect the career, salary, and/or work environment of another employee.
  - b. **Within the educational environment**, engaging in implicit or explicit coercive sexual behavior which is used to control, influence, or affect the educational opportunities, grades, and/or learning environment of a student. For example, offering favors of educational or employment benefits, such as grades or promotions, favorable performance evaluations, favorable assignments, favorable duties or shifts, recommendations, reclassification, etc. in exchange for sexual favors.
5. **Any expression of sexual interest between adults and students, regardless of reciprocity is considered inappropriate and shall be subject to discipline under applicable state law. Complaint and Reporting Procedure**

### ***C. Reporting Procedure***

*The Title IX Officer is defined as the Executive Director.*

### ***Witness Reporting***

*All employees, upon personal knowledge of an incident of sexual harassment, are obligated to report it to the Title IX Officer, or if the alleged harasser is the Title IX Officer, the report shall be made to any Board member. Failure to do so is a violation of this policy. Failure of staff to report student allegations of sexual harassment within three (3) school days is a violation of this policy.*

### ***Complainant Reporting***

Any student, employee, or agent who believes he or she has been sexually harassed by an employee, agent, or student of the School, should promptly report the facts of the incident(s) and the name of the individual involved to an adult staff member with whom they feel comfortable, and that person shall report the incident to the Title IX Officer. If the alleged harasser is the Title IX Officer, the person can report the incident to the Board Chair. A written report of the alleged incident will be developed by the Title IX Officer or Board Chair. A copy of the report, along with a copy of this policy, shall be mailed to the parent of the student who initiated the complaint.

Any student, employee or agent who feel aggrieved because of unwelcome conduct that may constitute sexual harassment are not required to inform the person engaging in such conduct that the conduct is unwanted, offensive and must stop, but are encouraged to do so. An aggrieved individual is not required to complain to his or her instructor if that instructor is the individual who is harassing the student. Any individuals making a report may bring an advocate to assist them.

### **Filing Complaints with State and Federal Agencies**

Aggrieved parties may wish to file complaints with other appropriate state and federal agencies, including:

U.S. Office for Civil Rights  
50 United Nations Plaza, Room 239  
San Francisco, CA 94102  
(415) 556-7000

The State Fair Employment and Housing Commission  
30 Van Ness Avenue  
San Francisco, CA 94102  
(415) 557-2005.

### **Confidentiality**

An allegation of sexual harassment and the results of the investigation shall be kept confidential to the extent reasonably possible under the investigative process. Witnesses and those interviewed shall be informed of the confidential nature of the issues and the investigation, and shall be informed that it will be a violation of this policy to disclose the allegation or the nature of the investigation to others and shall be subject to disciplinary action as defined in this policy.

### **Retaliation is Prohibited**

The initiation of an allegation of sexual harassment, will not cause any reflection on the individual reporting the incident or witnesses nor will it affect such persons' future business dealings with the School, his or her employment, compensation or work assignments, or, in the case of students, grades, class section or other matters pertaining to his or her status as a student of any School programs. It shall be a violation of this policy to engage in such retaliation. An allegation of retaliation shall be considered as a separate incident, shall be investigated, and shall be subject to disciplinary action.

### **Time Limits**

Allegations of sexual harassment shall be reported as soon as reasonably possible after the conduct in question has taken place. *Any staff who receives a harassment complaint shall promptly notify the Title IX Officer, or the event the subject of the complaint is the Title IX Officer, the Board Chair. An employee may bypass his/her supervisor in filing a complaint where the supervisor is the subject of the complaint.*

### **Disciplinary Action**

When an allegation of sexual harassment is supported by the investigation and disciplinary action is necessary, the School Director will determine what course of action is appropriate, depending upon whether the harasser is a student, staff member, or agent of the School. Employees who violate this policy may be subject to discipline up to and including dismissal. Such disciplinary action shall be in accordance with applicable policies, laws, and/or collective bargaining agreements. Students who violate this policy may be subject to discipline up to and including expulsion. Such disciplinary action shall

be in accordance with board policy and state law. Agents of the School who violate this policy may be subject to penalties and sanctions as may be available to the School, including termination of business relationships and contracts or the privilege of volunteering on campus.

### **Appeal Procedures**

Either the complaining party or the accused may appeal the findings of an investigation to the Governing Board of the School. Appeals shall be made in writing within fifteen (15) business days from the date of a finding.

### **Training**

To implement this policy the School will provide appropriate training programs for staff; teachers will be instructed to discuss the topic in a pedagogically and age-appropriate way with their students.

### **Notification**

There will be adequate notification of the policy to include permanent posters in public areas, offices, and hallways. The policy will be published in the *Employee Handbook* and described in the *Parent Handbook*. Copies will also be available upon request in the School office.

### **Administrative Regulation**

The School Director shall adopt, and from time to time may revise, further procedures as may be necessary to implement this policy and provide for a means of enforcing this policy. Such further procedures may include the following: posting and other means of distributing the policy; a process under which complaints will be handled, formally or informally, an explanation of possible civil proceedings and potential legal consequences of sexual harassment. The School Director will initiate training and education programs to enable all persons, and in particular, supervisors, to better understand the problem of sexual harassment. In addition, the School Director shall designate appropriate employees to enforce or administer this policy within the School and shall provide for appropriate training for employees on an annual basis.

### **Special Assistance**

It is expected that questions may arise concerning the interpretation of the prohibition against sexual harassment, the methods and procedures to be following in the investigation of complaints, and the appropriateness of specific solutions in disposition of complaints. For assistance in these matters, individuals may contact the School Director.

### **Current Legal references barring sexual harassment in education:**

Title VII of the Civil Rights Act – 42 CUS Section 2000-e-2(a)(1)

California Fair Employment & Housing Act – Government Code Section 12940

Title IX of the Education Amendments of 1972 29 USC Section 1681 et. seq.

California Education Code, Section 200 et seq.

Adopted: \_\_\_\_\_